

1 ROBERT E. FREITAS (STATE BAR NO. 80948)
rfreitas@ftklaw.com
2 CRAIG R. KAUFMAN (STATE BAR NO. 159458)
ckaufman@ftklaw.com
3 JASON S. ANGELL (STATE BAR NO. 221607)
jangell@ftklaw.com
4 FREITAS TSENG & KAUFMAN LLP
100 Marine Parkway, Suite 200
5 Redwood City, CA 94065
Telephone: (650) 593-6300
6 Facsimile: (650) 593-6301

7 Attorneys for Plaintiff
Orinda Intellectual Properties USA
8 Holding Group, Inc.

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION
13

14 ORINDA INTELLECTUAL
15 PROPERTIES USA HOLDING GROUP,
INC.,

16 Plaintiff,

17 v.

18 SONY CORPORATION; SONY
19 ELECTRONICS INC.; SONY
COMPUTER ENTERTAINMENT, INC.,
20 and SONY COMPUTER
ENTERTAINMENT AMERICA, INC.

21 Defendants.
22
23
24
25
26
27
28

Case No. C-09-04920 EDL

**JOINT STATUS UPDATE ON THE RE-
EXAMINATION PROCESS AND THE
PARTIES' RESPECTIVE POSITIONS ON
WHETHER THE STAY SHOULD
REMAIN IN PLACE**

1 By Order dated February 13, 2013 (D.I. 114), this Court directed the parties to submit a
2 status report on the re-examination process by February 22, 2013 and then at four month intervals
3 thereafter. Pursuant to the Order, the parties jointly present the following status report:

4 **I. Status Of Re-Examination.**

5 All claims in U.S. Patent No. 5,438,560 were rejected in re-examination. A brief summary
6 of the re-examination proceeding follows:

7 The U.S. Patent and Trademark Office (PTO) granted Sony's re-examination request on
8 April 19, 2010 finding that a substantial new question of patentability exists, which affected all
9 claims;

10 The PTO issued a first Office Action on March 7, 2011 asserting that all claims were
11 invalid;

12 Orinda filed its initial response on May 9, 2011;

13 The PTO issued a final Office Action on September 28, 2011 maintaining its rejection of
14 all claims;

15 Orinda filed a response on October 28, 2011 in which it cancelled Claims 1 and 3 and
16 presented arguments that Claim 2 was valid;

17 The PTO issued an Advisory Action on December 2, 2011 in which it accepted the
18 cancellation of Claims 1 and 3, and maintained its rejection of Claim 2;

19 Orinda filed a notice of appeal on December 16, 2011;

20 Orinda filed an Appeal Brief on February 16, 2012 appealing the rejection of Claim 2;

21 The PTO issued an Examiner's Answer on August 7, 2012 maintaining the rejection of
22 Claim 2;

23 On October 5, 2012, Orinda filed a Reply Brief and requested an oral hearing; and

24 On February 12, 2013, the reexamination was forwarded to the Board of Patent Appeals
25 and Interferences (now the Patent Trial and Appeal Board).

26 On March 29, 2013, the Patent Trial and Appeal Board set the oral argument in the appeal
27 for July 17, 2013. On April 12, 2013, Orinda confirmed that it will present oral argument at the
28 appeal.

1 On July 17, 2013, the Patent Trial and Appeal Board heard oral argument in the appeal.

2 On November 20, 2013, the Patent Trial and Appeal Board issued a written decision
3 affirming the rejection of Claim 2.

4 On January 14, 2014, Orinda filed a Notice of Appeal seeking review of the Patent Trial
5 and Appeal Board's decision by the United States Court of Appeals for the Federal Circuit.

6 **II. Orinda's and Sony's Position On The Stay.**

7 To conserve the parties' and the Court's resources, the parties believe that the stay should
8 remain in place through the pendency of the appeal before the United States Court of Appeals for
9 the Federal Circuit.

10
11 Dated: February 25, 2013

FREITAS TSENG & KAUFMAN LLP

12
13 By: /s/ Craig R. Kaufman

14 Craig R. Kaufman
15 Attorneys for Plaintiff Orinda Intellectual
Properties USA Holding Group, Inc.

16 Dated: February 25, 2013

17 LERNER, DAVID, LITTENBERG,
18 KRUMHOLZ & MENTLIK, LLP

19 By: /s/ Gregory S. Gewirtz

20 Gregory S. Gewirtz
21 Attorneys for Defendants Sony Corporation
22 Sony Electronics Inc., Sony Computer
23 Entertainment Inc. and Sony Computer
24 Entertainment America LLC
25
26
27
28

ATTESTATION OF CONCURRENCE

I, Craig R. Kaufman, am the ECF User whose ID and password are being used to file this **JOINT STATUS UPDATE ON THE RE-EXAMINATION PROCESS AND THE PARTIES' RESPECTIVE POSITIONS ON WHETHER THE STAY SHOULD REMAIN IN PLACE.** I attest that, pursuant to United States District Court, Northern District of California Civil L.R. 5-1(i)(3) and General Order 45, concurrence in the filing of this document has been obtained from Counsel for Defendants Sony Corporation, Sony Electronics Inc., Sony Computer Entertainment Inc. and Sony Computer Entertainment America LLC. I declare under penalty of perjury that the foregoing is true and correct.

/s/ Craig R. Kaufman

Craig R. Kaufman